

Appl. No. : 10/671,417
Filed : September 24, 2003

REMARKS

Claims 1 and 10 have been amended to recite the steps of inserting an introducer sheath transcutaneously into an artery, thereby creating the passageway and an arteriotomy, inserting a catheter through the passageway and arteriotomy to perform a transcatheter procedure, inserting a thermal delivery probe into the passageway, ultrasonically interrogating a section of the passageway using pulsed Doppler, and advancing the thermal delivery probe down the passageway until the pulsed Doppler indicates that the probe is at a pre-determined distance from the arteriotomy. Support for these amendments may be found in the specification, for example, in paragraphs 0054, 0064-0065, and 0071; Figures 2D, 3A, 4, and 7C; and Claims 2 and 11 as originally filed.

Claims 18 and 19 have been amended to recite a first opening in the proximal section in communication with the lumen and a second opening on the distal tip in communication with the lumen, wherein the first and second openings and the lumen are configured such that the shaft may be threaded over a guidewire extending through the first opening and lumen and out the second opening. Support for these amendments may be found in the specification, for example, in paragraphs 0046 and 0064 and Figures 4 and 5.

The phrase "or larger" has been deleted from Claims 4 and 12. Claims 2, 11, and 21 have been canceled. The dependencies of Claims 3, 6, and 12 have been amended in view of the cancellations.

No new matter has been introduced. The Applicants have carefully considered all of the Examiner's rejections, but respectfully submit that the claims are allowable for at least the following reasons.

Rejections under § 112 – Indefiniteness

The Examiner rejected Claims 4 and 12 under 35 U.S.C. § 112, ¶ 2 as being indefinite due to the language, "or larger," appearing in those claims. The Applicants have deleted this language, rendering the rejections moot.

Rejections under §§ 102 and 103

The Examiner rejected Claims 1-3, 6, 7, 10, 11, 14, 15, 18, 19, and 21 under 35 U.S.C. § 102(e) as being anticipated by Driscoll et al. (U.S. Patent No. 5,882,302); Claims 4, 5, 7-9, 12, 13, and 15-17 under 35 U.S.C. § 103(a) as being obvious over Driscoll in view Seward et al.

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(U.S. Patent No. 5,713,363) and Unger et al. (U.S. Patent No. 5,558, 092).; and Claim 20 under 35 U.S.C. § 103(a) as being obvious over Driscoll in view of Belef et al. (U.S. Patent No. 6,078,831).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” M.P.E.P. § 2131 (quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 621, 631 (Fed. Cir. 1987)). A *prima facie* case of obviousness requires that all of the claim limitations are taught or suggested by the prior art. See M.P.E.P. § 2143.03.

Neither Driscoll nor any of the cited secondary references teach or suggest all the limitations now recited in Claims 1, 3-10, and 12-17. Accordingly, the Applicants respectfully submit that Claims 1, 3-10, and 12-17 are neither anticipated by nor obvious over the cited art. Similarly, neither Driscoll nor any of the cited secondary references teach or suggest all the limitations now recited in Claims 18-20. Accordingly, the Applicants respectfully submit that Claims 18-20 are neither anticipated by nor obvious over the cited art.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: 2-8-07

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